



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 1366-00
4 August 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps filed enclosure (1) with this Board requesting, in effect, that his discharge be upgraded.

2. The Board, consisting of Messrs. Kastner, Neuschafer, and Taylor, reviewed Petitioner's allegations of error and injustice on 1 August 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 22 October 1968 at the age of 19. On 16 January 1969 he received nonjudicial punishment (NJP) for failure to obey a lawful order. The punishment imposed was a \$10 forfeiture of pay.

d. On 21 April 1969 Petitioner submitted a written request for a hardship discharge. His request noted, in part, as follows:

....both my mother and father are physically and mentally unable to live alone and properly care for themselves. My mother has chronic paranoid type schizophrenic reactions and has to be under continuous supervision because of previous suicidal attempts. My father has coronary occlusion and mild hypertension, which limits his ability to work. I have two older brothers, both of which are married and have children of their own and are unable to provide physical or financial support.

e. On 3 June 1969 Petitioner's request for a hardship discharge was denied because the circumstances surrounding his request did not meet the requirement for a hardship discharge. Specifically, other family members could provide the necessary assistance to Petitioner's parents.

f. On 21 June 1969 Petitioner began a 59 day period of unauthorized absence (UA) that was not terminated until 19 August 1969. On 25 September 1969 Petitioner was convicted by special court-martial (SPCM) of the foregoing period of UA and sentenced to confinement at hard labor for a months and a \$80 forfeiture of pay.

g. On 17 February 1970 Petitioner was convicted by summary court-martial (SCM) of a 43 day period of UA. He was sentenced to confinement at hard labor for 30 days and a \$30 forfeiture of pay.

h. Subsequently, Petitioner was administratively processed for an other than honorable discharge by reason of frequent involvement of a discreditable nature with military and civilian authorities. On 28 April 1970 Petitioner was so discharged.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board's decision is based upon Petitioner's youth and immaturity, and his problems which led to his request for a hardship discharge to provide financial and physical support to his physically and mentally ill parents. The Board notes Petitioner's misconduct and does not condone his actions. However, the Board notes that Petitioner, while in an UA status, appeared to be at the residence of his parents, and believes that he was there to provide support for his parents. The Board further believes that Petitioner only went UA after his request for a hardship discharge was denied. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than

honorable conditions, and recharacterization to a general discharge is appropriate. Accordingly, the Board concludes that relief in the form of recharacterization of Petitioner's discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 28 April 1970 vice the other than honorable discharge actually issued on that date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 22 February 2000.

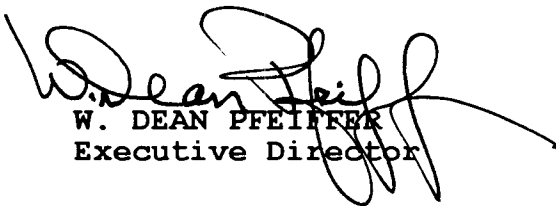
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director